



Reprinted
April 14, 2015

ENGROSSED SENATE BILL No. 330

DIGEST OF SB 330 (Updated April 13, 2015 5:36 pm - DI 87)

Citations Affected: IC 13-18; IC 36-4; IC 36-9.

Synopsis: Annexation. Provides the following for annexations for which an annexation ordinance is adopted after June 30, 2015: (1) Remonstrance petitions are filed with the county auditor (instead of a court). (2) If at least 65% of owners of non-tax exempt land or the owners of 80% of the assessed value of non-tax exempt land in the annexation territory sign a remonstrance, provides that an annexation ordinance is void and does not proceed. Provides that if the annexation involves extension of capital services to an economic development project, the annexation may be appealed to a court. (3) Provides that a remonstrance may be appealed to a court if a petition for remonstrance is signed by at least 51% of the owners of land (excluding tax-exempt land) or the owners of 60% of the assessed value land in the territory (excluding tax-exempt land). (4) Eliminates a separate remonstrance for property that consists of not more than 100 parcels and is 80%
(Continued next page)

Effective: July 1, 2015.

Boots, Head, Buck, Smith J, Broden
(HOUSE SPONSORS — NEGELE, TRUITT)

January 8, 2015, read first time and referred to Committee on Local Government.
February 19, 2015, amended, reported favorably — Do Pass.
February 23, 2015, read second time, ordered engrossed. Engrossed.
February 24, 2015, read third time, passed. Yeas 34, nays 16.

HOUSE ACTION

March 5, 2015, read first time and referred to Committee on Government and Regulatory Reform.
April 7, 2015, amended, reported — Do Pass.
April 13, 2015, read second time, amended, ordered engrossed.

ES 330—LS 6925/DI 87



contiguous to a municipality. (5) Requires the annexation fiscal plan to be similar to plans required for local government mergers and reorganizations. (6) Requires a municipality to conduct an outreach program to inform citizens about a proposed annexation. (7) Allows prevailing remonstrators to recover reasonable expenses incurred in filing and litigating the remonstrance, including appeal costs and reasonable attorney's fees not to exceed \$50,000. (8) Specifies the circumstances under which a public highway or rights-of-way of a public highway may be annexed. (9) Provides for municipal reimbursements to counties related to infrastructure owned by the county. (10) Allows a municipality to exempt property from property tax liability for municipal purposes while the property is assessed as agricultural land under the real property assessment rules and guidelines of the department of local government finance (instead of classified as agricultural for zoning purposes). (11) Requires a municipality to give notice of an annexation hearing to a landowner whose agricultural property is exempted from property taxes for municipal purposes. (12) Provides the following with regard to the elements that landowners must prove in a remonstrance hearing for the court to order an annexation not to take place: (A) Provides that a court may not consider personal finances or business finances of an owner or resident of land in determining whether the annexation will have a significant financial impact on the residents or owners of land. (B) Provides that proof of opposition to the annexation may be shown by the remonstrance petitions minus any written revocations of remonstrances that are filed with the court. Prohibits fiscal plans prepared after June 30, 2015, from being amended after a remonstrance petition is filed to exclude parcels, unless the amendment is consented to by remonstrators whose parcels are excluded. Removes an annexation procedure applicable only to a municipality in St. Joseph County. Allows only the owners of non-tax exempt property to file a landowner initiated annexation petition that is filed after June 30, 2015. Provides common names for the different annexation procedures. Provides that a waiver or release of the right of remonstrance against annexation executed after June 30, 2015, expires on the earlier of: (1) 25 years after the date the waiver or release is executed; or (2) the date that the original municipal debt, bonds, or obligations that are issued or incurred to finance the costs directly related to provision of the service for which the waiver was obtained are fully paid or would be paid.



Reprinted
April 14, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 330

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-18-15-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The persons
3 involved shall negotiate the terms for connection and service under this
4 chapter.
5 (b) If service is ordered under this chapter, a receiver of that service
6 that is located in an unincorporated area may grant a waiver to a
7 municipality providing the service. A waiver under this section:
8 (1) must waive the receiver's right of remonstrance against
9 annexation of the areas in which the service is to be provided; and
10 (2) may be one (1) of the terms for connection and service
11 described in subsection (a).
12 (c) The waiver, if granted:
13 (1) shall be noted on the deed of each property affected and

ES 330—LS 6925/DI 87



recorded as provided by law; and

(2) is considered a covenant running with the land.

(d) A waiver of remonstrance that is executed after June 30, 2015, expires on the earlier of the following dates:

(1) Twenty-five (25) years after the date the waiver is executed.

(2) The date that the original municipal debt, bonds, or obligations that:

(A) were issued or incurred to finance:

(i) the construction or improvements; or

(ii) other costs; and

(B) are directly related to the provision of the service for which the waiver was obtained;

are fully paid or would be paid.

The extension of the date of repayment of the municipal debt, bonds, or obligations described in subdivision (2) because of refinancing or refunding does not extend the date determined in subdivision (2).

SECTION 2. IC 36-4-3-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.2. The annexation procedures may be referred to as follows:**

(1) An annexation under section 5 of this chapter may be referred to as a landowner initiated annexation.

(2) An annexation under section 5.1 of this chapter may be referred to as a unanimous landowner initiated annexation.

(3) An annexation to which section 5 or 5.1 of this chapter does not apply may be referred to as a municipality initiated annexation.

SECTION 3. IC 36-4-3-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. (a)** For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous a strip of land less than one hundred fifty (150) feet wide ~~which~~ **that** connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

(b) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. A public highway or the rights-of-way of a public highway is contiguous to:

(1) the municipality; or



(2) property in the unincorporated area adjacent to the public highway or rights-of-way of a public highway; if the public highway or the rights-of-way of a public highway is contiguous under subsection (a) and one (1) of the requirements in subsection (c) is satisfied.

(c) A public highway or rights-of-way of a public highway is not contiguous unless one (1) of the following requirements is met:

(1) The municipality obtains the written consent of the owners of all property:

(A) adjacent to the entire length of the portion of the public highway and rights-of-way of the public highway that is being annexed; and

(B) not already within the corporate boundaries of the municipality.

A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent for purposes of this subdivision.

(2) All property adjacent to the entire length of the portion of the public highway or rights-of-way of the public highway being annexed are already within the corporate boundaries of the municipality.

(3) All property adjacent to the entire length of the portion of the public highway or rights-of-way of the public highway being annexed are part of the same annexation ordinance in which the public highway or rights-of-way of a public highway are being annexed.

A municipality may not annex a public highway or rights-of-way of a public highway or annex territory adjacent to the public highway or rights-of-way of a public highway unless the requirements of this section are met.

SECTION 4. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.7. (a) This section applies only to an annexation ordinance adopted after June 30, 2015. This section does not apply to an annexation under section 5.1 of this chapter.

(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. The outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. The public information meetings must provide citizens with the



1 following information:

2 (1) Maps showing the proposed boundaries of the annexation
3 territory.

4 (2) Proposed plans for extension of capital and noncapital
5 services in the annexation territory, including proposed dates
6 of extension.

7 (3) Expected fiscal impact on taxpayers in the annexation
8 territory, including any increase in taxes and fees.

9 (c) The municipality shall provide notice of the dates, times, and
10 locations of the outreach program meetings. The municipality shall
11 publish the notice of the meetings under IC 5-3-1, including the
12 date, time, and location of the meetings, except that notice must be
13 published not later than thirty (30) days before the date of each
14 meeting. The municipality shall also send notice to each owner of
15 land within the annexation territory not later than thirty (30) days
16 before the date of the first meeting of the outreach program. The
17 notice to landowners shall be sent by mail or certified mail and
18 include the following information:

19 (1) The notice shall inform the landowner that the
20 municipality is proposing to annex territory that includes the
21 landowner's property.

22 (2) The municipality is conducting an outreach program for
23 the purpose of providing information to landowners and the
24 public regarding the proposed annexation.

25 (3) The date, time, and location of the meetings to be
26 conducted under the outreach program.

27 (d) The notice shall be sent to the address of the landowner as
28 listed on the tax duplicate. If the municipality provides evidence
29 that the notice was sent by certified mail, with return receipt
30 requested, and in accordance with this section, it is not necessary
31 that the landowner accept receipt of the notice. If a remonstrance
32 is filed under section 11 of this chapter, the municipality shall file
33 with the court proof that notices were sent to landowners under
34 this section and proof of publication.

35 (e) The notice required under this section is in addition to any
36 notice required under sections 2.1 and 2.2 of this chapter.

37 SECTION 5. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010,
38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2015]: Sec. 2.2. (a) This section does not apply to an
40 annexation under section 4(a)(2), 4(a)(3), 4(b), or 4(h) or 4.1 of this
41 chapter or an annexation described in section 5.1 of this chapter.

42 (b) Before a municipality may annex territory, the municipality shall



1 provide written notice of the hearing required under section 2.1 of this
 2 chapter. Except as provided in subsection (f), the notice must be sent
 3 by certified mail at least sixty (60) days before the date of the hearing
 4 to each owner of real property, as shown on the county auditor's current
 5 tax list, whose real property is located within the territory proposed to
 6 be annexed.

7 (c) For purposes of an annexation of territory described in section
 8 2.5 of this chapter, if the hearing required under section 2.1 of this
 9 chapter is conducted after June 30, 2010, the notice required by this
 10 section must also be sent to each owner of real property, as shown on
 11 the county auditor's current tax list, whose real property is adjacent to
 12 contiguous areas of rights-of-way of the public highway that are only
 13 included in the annexation of territory by operation of IC 36-4-3-2.5 on
 14 the side of the public highway that is not part of the annexed territory.

15 (d) The notice required by this section must include the following:

16 (1) A legal description of the real property proposed to be
 17 annexed.

18 (2) The date, time, location, and subject of the hearing.

19 (3) A map showing the current municipal boundaries and the
 20 proposed municipal boundaries.

21 (4) Current zoning classifications for the area proposed to be
 22 annexed and any proposed zoning changes for the area proposed
 23 to be annexed.

24 (5) A detailed summary of the fiscal plan, described in section 13
 25 of this chapter, **if applicable**.

26 (6) The location where the public may inspect and copy the fiscal
 27 plan, **if applicable**.

28 (7) A statement that the municipality will provide a copy of the
 29 fiscal plan, **if applicable**, after the fiscal plan is adopted
 30 immediately to any landowner in the annexed territory who
 31 requests a copy.

32 (8) The name and telephone number of a representative of the
 33 municipality who may be contacted for further information.

34 (e) If the municipality complies with this section, the notice is not
 35 invalidated if the owner does not receive the notice.

36 (f) This subsection applies to an annexation under section 3 or 4 of
 37 this chapter in which all property owners within the area to be annexed
 38 provide written consent to the annexation. The written notice described
 39 in this section must be sent by certified mail not later than twenty (20)
 40 days before the date of the hearing to each owner of real property, as
 41 shown on the county auditor's current tax list, whose real property is
 42 located within the territory proposed to be annexed.



SECTION 6. IC 36-4-3-4.1, AS AMENDED BY P.L.243-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.1. (a) A municipality may annex territory under this section only if the territory is contiguous to the municipality.

(b) **This subsection applies only to an annexation ordinance adopted before July 1, 2015.** Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural.

(c) **This subsection applies only to an annexation ordinance adopted after June 30, 2015. Real property annexed under this section:**

(1) is exempt; and

(2) remains exempt;

from all property tax liability under IC 6-1.1 for municipal purposes while the property is assessed as agricultural land under the real property assessment rules and guidelines of the department of local government finance.

~~(c)~~ (d) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

~~(d)~~ (e) Territory annexed under this section may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

SECTION 7. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.2. (a) **As used in this section, "infrastructure" means the capital improvements that comprise:**

(1) a sanitary sewer system or wastewater treatment facility;

(2) a building and appurtenances;

(3) a park or recreational facility;

(4) a road, street, highway, or bridge; or

(5) a water treatment, water storage, or water distribution facility.

(b) **This section applies:**

(1) **only to an annexation for which an annexation ordinance is adopted after June 30, 2015; and**

(2) **if there is debt, evidenced by bonds, leases, or other**



obligations, that is outstanding on infrastructure on the date that the annexation becomes effective.

(c) This subsection applies if:

(1) the municipality takes ownership of infrastructure located within the annexation territory, or part of an item of infrastructure, owned by the county; and

(2) the outstanding debt is payable from property taxes or from revenue bonds or obligations.

The annexing municipality is liable to the county for reimbursements only if the municipality assumes ownership or partial ownership of the infrastructure. If the municipality assumes ownership or partial ownership of the infrastructure, the municipality shall reimburse the county for the appropriate share of the remaining debt that is payable by the county from property taxes or revenues. The county and the annexing municipality shall enter into an interlocal agreement under IC 36-1-7 regarding the allocation of the debt and reimbursement terms.

(d) This subsection applies if a local income tax under IC 6-3.5 has been pledged by the county to pay outstanding debt on infrastructure located within the county. To offset the change in local income tax distributions that will occur after the annexation, the annexing municipality is liable to the county for reimbursements in the amount that represents part of the outstanding debt on the infrastructure until the debt is fully paid. The amount that the municipality is required to reimburse the county is the lesser of:

(1) the amount of local income tax revenue for the distribution year that is shifted from the county to the municipality as a result of the annexation; or

(2) the amount needed to produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service obligation for which the local income tax revenue was pledged.

(e) Reimbursements received by a county under this section shall be deposited in the appropriate debt service fund.

SECTION 8. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) **This subsection applies only to a petition requesting annexation that is filed before July 1, 2015.** If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:



(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) This subsection applies only to a petition requesting annexation that is filed after June 30, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition that meets the following requirements:

(1) The petition is signed by at least one (1) of the following:

(A) Fifty-one percent (51%) of the owners of land in the territory sought to be annexed. An owner of land may not:

(i) be counted in calculating the total number of owners of land in the annexation territory; or

(ii) have the owner's signature counted;

with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(B) The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The petition requests an ordinance annexing the area described in the petition.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) Except as provided in section 5.1 of this chapter, If the



legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

~~(d)~~ **(e)** The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

~~(e)~~ **(f)** This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 9. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) ~~This section applies to an annexation in which~~ Owners of land located outside but contiguous to a municipality **may** file a petition with the legislative body of the municipality:

- (1) requesting an ordinance annexing the area described in the petition; and
- (2) signed by:
 - (A) one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed, in the case of a petition filed before July 1, 2015; and**
 - (B) in the case of a petition filed after June 30, 2015, one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.**

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each



page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

~~(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.~~

~~(j) In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.~~

SECTION 10. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of



1 this chapter takes effect immediately upon the expiration of the ~~sixty~~
 2 ~~(60) day~~ remonstrance and appeal period under section 11, **11.1**, or
 3 15.5 of this chapter and after the publication, filing, and recording
 4 required by section 22(a) of this chapter if all of the following
 5 conditions are met:

- 6 (1) The annexed territory has no population.
- 7 (2) Ninety percent (90%) of the total assessed value of the land
 8 for property tax purposes has one (1) owner.
- 9 (3) The annexation is required to fulfill an economic development
 10 incentive package and to retain an industry through various local
 11 incentives, including urban enterprise zone benefits.

12 SECTION 11. IC 36-4-3-11 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) **This subsection**
 14 **applies only to an annexation for which an annexation ordinance**
 15 **was adopted before July 1, 2015.** Except as provided in section 5.1(i)
 16 of this chapter and subsections ~~(d) and (e)~~, **(e) and (f)**, whenever
 17 territory is annexed by a municipality under this chapter, the
 18 annexation may be appealed by filing with the circuit or superior court
 19 of a county in which the annexed territory is located a written
 20 remonstrance signed by:

- 21 (1) at least sixty-five percent (65%) of the owners of land in the
 22 annexed territory; or
- 23 (2) the owners of more than seventy-five percent (75%) in
 24 assessed valuation of the land in the annexed territory.

25 The remonstrance must be filed within ninety (90) days after the
 26 publication of the annexation ordinance under section 7 of this chapter,
 27 must be accompanied by a copy of that ordinance, and must state the
 28 reason why the annexation should not take place.

29 (b) **This subsection applies only to an annexation for which an**
 30 **annexation ordinance was adopted before July 1, 2015.** On receipt
 31 of the remonstrance, the court shall determine whether the
 32 remonstrance has the necessary signatures. In determining the total
 33 number of landowners of the annexed territory and whether signers of
 34 the remonstrance are landowners, the names appearing on the tax
 35 duplicate for that territory constitute prima facie evidence of
 36 ownership. Only one (1) person having an interest in each single
 37 property, as evidenced by the tax duplicate, is considered a landowner
 38 for purposes of this section.

39 (c) **This subsection applies only to an annexation for which an**
 40 **annexation ordinance was adopted before July 1, 2015.** If the court
 41 determines that the remonstrance is sufficient, ~~it~~ **the court** shall fix a
 42 time, within sixty (60) days ~~of its~~ **after the court's** determination, for



a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015. If the number of signatures on a remonstrance as determined by the county auditor meets the requirements of section 11.1(d) of this chapter, the remonstrance may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:

- (1) the signed remonstrances filed with the county auditor under section 11.1 of this chapter;**
- (2) the county auditor's certification under section 11.1(b)(6) of this chapter;**
- (3) the annexation ordinance; and**
- (4) a statement of the reason why the annexation should not take place.**

The remonstrance must be filed with the court not later than fourteen (14) business days after the date the county auditor files the certificate with the legislative body under section 11.1(b)(6) of this chapter. Notwithstanding section 11.1(b)(2) of this chapter, after a remonstrance petition is filed with the court, any person who signed a remonstrance may file with the court a written revocation of the person's opposition to the annexation.

~~(d)~~ **(e)** If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

~~(e)~~ **(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This subsection applies if:**

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and**
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.**

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory. ~~as determined under subsection (b).~~

SECTION 12. IC 36-4-3-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2015]: Sec. 11.1. (a) This section applies only
2 to an annexation ordinance adopted after June 30, 2015.

3 (b) After an annexation ordinance has been adopted in
4 accordance with all applicable notice and hearing requirements
5 under this chapter, the annexation may not proceed unless the
6 annexing municipality completes the following procedures:

7 (1) The proper officers of the municipality must give notice of
8 the applicability of the remonstrance process by:

9 (A) publishing the notice in accordance with IC 5-3-1; and

10 (B) first class mail to the circuit court clerk and to owners
11 of real property described in section 2.2 of this chapter.

12 A notice under this subdivision must include a statement that
13 any owners of real property within the area to be annexed
14 who want to remonstrate against the proposed annexation
15 must file remonstrances in compliance with subdivisions (2)
16 through (4) not later than ninety (90) days after publication
17 of the notice in accordance with IC 5-3-1.

18 (2) Not later than ninety (90) days after the notice under
19 subdivision (1) is given, remonstrances may be filed by an
20 owner of real property within the area to be annexed that was
21 not exempt from property taxes under IC 6-1.1-10 or any
22 other state law for the immediately preceding year. Each
23 signature on the remonstrance must be dated, and the date of
24 the signature may not be earlier than the date on which the
25 remonstrance forms may be issued under subdivision (3). A
26 person who signs as an owner of real property must indicate
27 the address of the real property owned by the person in the
28 area to be annexed. A remonstrance petition must be verified
29 in compliance with subdivision (4) before the remonstrance is
30 effective. A signature on a remonstrance form is final and
31 may not be rescinded.

32 (3) The state board of accounts shall design and, upon request
33 by the county auditor's office, deliver to the county auditor's
34 office or the county auditor's office's designated printer the
35 remonstrance forms to be used solely in the remonstrance
36 process described in this section. The county auditor's office
37 shall issue to an owner or owners of real property within the
38 area to be annexed the number of remonstrance forms
39 requested by the owner or owners. Each form must be
40 accompanied by instructions detailing all of the following
41 requirements:

42 (A) A carrier of the remonstrance may not be:



1 (i) compensated for; or

2 (ii) reimbursed for expenses incurred in;
3 circulating a remonstrance form for signature.

4 (B) After the signatures have been collected, the carrier
5 must swear or affirm before a notary public that the
6 carrier witnessed each signature.

7 (C) The closing date for the remonstrance period.

8 A person requesting remonstrance forms may be required to
9 identify himself or herself as an owner of real property and
10 may be allowed to obtain additional copies to distribute to
11 other owners of real property and to carriers of the
12 remonstrance. The county auditor's office may not issue a
13 remonstrance form earlier than the day that notice is
14 published under subdivision (1). The county auditor's office
15 shall certify the date of issuance on each remonstrance form
16 that is distributed under this subdivision.

17 (4) Remonstrance forms must be verified in the manner
18 prescribed by the state board of accounts and filed with the
19 county auditor's office within the period described in
20 subdivision (2).

21 (5) Not later than fifteen (15) business days after receiving a
22 remonstrance, the county auditor's office shall make a final
23 determination of the number of owners of real property
24 within the territory to be annexed who signed the
25 remonstrance. Only one (1) person having an interest in each
26 single property as evidenced by the tax duplicate is considered
27 an owner of property for purposes of this section and may
28 sign a remonstrance.

29 (6) The county auditor shall file a certificate with the
30 legislative body of the annexing municipality not later than
31 five (5) business days after making the determination under
32 subdivision (5). In making the determination under
33 subdivision (5), the county auditor shall use the auditor's
34 current tax records as provided in section 2.2 of this chapter.

35 (c) Except as provided in subsection (e), the annexation
36 ordinance is void if a written remonstrance is signed by one (1) of
37 the following:

38 (1) At least sixty-five percent (65%) of the owners of land in
39 the annexed territory. An owner of land may not:

40 (A) be counted in calculating the total number of owners of
41 land in the annexation territory; or

42 (B) have the owner's signature counted on a remonstrance;



with regard to any single property that an owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least eighty percent (80%) in assessed valuation of the land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count the owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(d) The annexation may be appealed to the court under section 11 of this chapter, if a written remonstrance is signed by one (1) of the following:

(1) At least fifty-one percent (51%) but less than sixty-five percent (65%) of the owners of land. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least sixty percent (60%) but less than eighty percent (80%) in assessed valuation of land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(e) An annexation may be appealed to the court under section 11 of this chapter if all of the following requirements are met:

(1) A written remonstrance is signed that meets the requirements of subsection (c) or (d).



(2) The annexation territory is contiguous to:

(A) the municipality; and

(B) property that is the site of an economic development project.

(3) The economic development project site described in subdivision (2)(B) needs the municipality to provide:

(A) water;

(B) sewer;

(C) gas; or

(D) any combination of the capital services described in clauses (A) through (C).

(4) The municipality finds that it is in the municipality's best interest to annex the annexation territory in order to extend, construct, or operate the capital services that are provided to the economic development project site described in subdivision (2)(B).

SECTION 13. IC 36-4-3-11.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.2. (a) This section applies to a remonstrance filed after June 30, 2015.

(b) If:

(1) an annexation ordinance is void under section 11.1(c) of this chapter; or

(2) the court orders an annexation not to take place after a hearing under section 11 of this chapter;

a court shall allow remonstrators to be reimbursed by the annexing municipality for reasonable expenses incurred in filing the remonstrance and any litigation expenses including appeal costs and reasonable attorney's fees. However, any expenses incurred by a carrier in circulating a remonstrance petition may not be reimbursed. The total amount reimbursed may not to exceed fifty thousand dollars (\$50,000).

SECTION 14. IC 36-4-3-11.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.3. A waiver of remonstrance that is executed after June 30, 2015, expires on the earlier of the following dates:

(1) Twenty-five (25) years after the date the waiver is executed.

(2) The date that the original municipal debt, bonds, or obligations that:

(A) were issued or incurred to finance:



- 1 (i) the construction or improvements; or
 2 (ii) other costs; and
 3 (B) are directly related to the provision of the service for
 4 which the waiver was obtained;
 5 are fully paid or would be paid.

6 The extension of the date of repayment of the municipal debt,
 7 bonds, or obligations described in subdivision (2) because of
 8 refinancing or refunding does not extend the date determined in
 9 subdivision (2).

10 SECTION 15. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,
 11 SECTION 188, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) Except as provided in
 13 ~~subsections~~ **subsection** (e), and ~~(g)~~, at the hearing under section 12 of
 14 this chapter, the court shall order a proposed annexation to take place
 15 if the following requirements are met:

- 16 (1) The requirements of either subsection (b) or (c).
 17 (2) The requirements of subsection (d).
 18 **(3) The requirements of subsection (i).**
 19 (b) The requirements of this subsection are met if the evidence
 20 establishes the following:
 21 (1) That the territory sought to be annexed is contiguous to the
 22 municipality.
 23 (2) One (1) of the following:
 24 (A) The resident population density of the territory sought to
 25 be annexed is at least three (3) persons per acre.
 26 (B) Sixty percent (60%) of the territory is subdivided.
 27 (C) The territory is zoned for commercial, business, or
 28 industrial uses.
 29 (c) The requirements of this subsection are met if the evidence
 30 establishes the following:
 31 (1) That the territory sought to be annexed is contiguous to the
 32 municipality as required by section 1.5 of this chapter, except that
 33 at least one-fourth (1/4), instead of one-eighth (1/8), of the
 34 aggregate external boundaries of the territory sought to be
 35 annexed must coincide with the boundaries of the municipality.
 36 (2) That the territory sought to be annexed is needed and can be
 37 used by the municipality for its development in the reasonably
 38 near future.
 39 (d) The requirements of this subsection are met if the evidence
 40 establishes that the municipality has developed and adopted a written
 41 fiscal plan and has established a definite policy, by resolution of the
 42 legislative body as set forth in section 3.1 of this chapter. The fiscal



- 1 plan must show the following:
- 2 (1) The cost estimates of planned services to be furnished to the
- 3 territory to be annexed. The plan must present itemized estimated
- 4 costs for each municipal department or agency.
- 5 (2) The method or methods of financing the planned services. The
- 6 plan must explain how specific and detailed expenses will be
- 7 funded and must indicate the taxes, grants, and other funding to
- 8 be used.
- 9 (3) The plan for the organization and extension of services. The
- 10 plan must detail the specific services that will be provided and the
- 11 dates the services will begin.
- 12 (4) That planned services of a noncapital nature, including police
- 13 protection, fire protection, street and road maintenance, and other
- 14 noncapital services normally provided within the corporate
- 15 boundaries, will be provided to the annexed territory within one
- 16 (1) year after the effective date of annexation and that they will be
- 17 provided in a manner equivalent in standard and scope to those
- 18 noncapital services provided to areas within the corporate
- 19 boundaries regardless of similar topography, patterns of land use,
- 20 and population density.
- 21 (5) That services of a capital improvement nature, including street
- 22 construction, street lighting, sewer facilities, water facilities, and
- 23 stormwater drainage facilities, will be provided to the annexed
- 24 territory within three (3) years after the effective date of the
- 25 annexation in the same manner as those services are provided to
- 26 areas within the corporate boundaries, regardless of similar
- 27 topography, patterns of land use, and population density, and in
- 28 a manner consistent with federal, state, and local laws,
- 29 procedures, and planning criteria.
- 30 **(6) This subdivision applies to a fiscal plan prepared after**
- 31 **June 30, 2015. The estimated effect of the proposed**
- 32 **annexation on taxpayers in each of the political subdivisions**
- 33 **to which the proposed annexation applies, including the**
- 34 **expected tax rates, tax levies, expenditure levels, service levels,**
- 35 **and annual debt service payments in those political**
- 36 **subdivisions for four (4) years after the effective date of the**
- 37 **annexation.**
- 38 **(7) This subdivision applies to a fiscal plan prepared after**
- 39 **June 30, 2015. The estimated effect the proposed annexation**
- 40 **will have on municipal finances, specifically how municipal**
- 41 **tax revenues will be affected by the annexation for four (4)**
- 42 **years after the effective date of the annexation.**



(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the **following** conditions, ~~set forth in clauses (A) through (D)~~ and, if applicable, ~~clause (E)~~ **that are applicable to the annexation**, exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. **The court may not consider:**

(i) the personal finances; or

(ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) **This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.** One

(1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.



Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

~~(E)~~ (F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.

This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

~~(g)~~ This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the



1 hearing under section 12 of this chapter, the court shall do the
2 following:

3 (1) Consider evidence on the conditions listed in subdivision (2):

4 (2) Order a proposed annexation not to take place if the court
5 finds that all of the following conditions exist in the territory
6 proposed to be annexed:

7 (A) The following services are adequately furnished by a
8 provider other than the municipality seeking the annexation:

9 (i) Police and fire protection:

10 (ii) Street and road maintenance:

11 (B) The annexation will have a significant financial impact on
12 the residents or owners of land:

13 (C) One (1) of the following opposes the annexation:

14 (i) A majority of the owners of land in the territory proposed
15 to be annexed:

16 (ii) The owners of more than seventy-five percent (75%) in
17 assessed valuation of the land in the territory proposed to be
18 annexed:

19 Evidence of opposition may be expressed by any owner of land
20 in the territory proposed to be annexed:

21 (h) (g) The most recent:

22 (1) federal decennial census;

23 (2) federal special census;

24 (3) special tabulation; or

25 (4) corrected population count;

26 shall be used as evidence of resident population density for purposes
27 of subsection (b)(2)(A), but this evidence may be rebutted by other
28 evidence of population density.

29 (h) A municipality that prepares a fiscal plan after June 30,
30 2015, must comply with this subsection. A municipality may not
31 amend the fiscal plan to exclude parcels after the date that a
32 remonstrance is filed under section 11 of this chapter, unless
33 amendment of the fiscal plan is consented to by the owners of the
34 excluded parcels who signed the remonstrance petition.

35 (i) The municipality must submit proof that the municipality has
36 complied with the outreach program requirements and notice
37 requirements of section 1.7 of this chapter.

38 SECTION 16. IC 36-4-3-14 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. In a hearing under
40 section 12 of this chapter, the laws providing for change of venue from
41 the county do not apply, but changes of venue from the judge may be
42 had as in other cases. Costs follow judgment. Pending the



1 remonstrance, and during the time within which the remonstrance may
 2 be taken, **entry of a final unappealable judgment**, the territory sought
 3 to be annexed is not considered a part of the municipality.

4 SECTION 17. IC 36-4-3-15 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. **(a) This section**
 6 **applies to a judgment filed after June 30, 2015.**

7 ~~(a)~~ **(b)** The court's judgment under section 12 or 15.5 of this chapter
 8 must specify the annexation ordinance on which the remonstrance is
 9 based. The clerk of the court shall deliver a certified copy of the **final**
 10 **and unappealable** judgment to the clerk of the municipality. The clerk
 11 of the municipality shall:

- 12 (1) record the judgment in the clerk's ordinance record; and
- 13 (2) make a cross-reference to the record of the judgment on the
 14 margin of the record of the annexation ordinance.

15 ~~(b)~~ **(c)** If a **final and unappealable** judgment under section 12 or
 16 15.5 of this chapter is adverse to annexation, the municipality may not
 17 make further attempts to annex the territory or any part of the territory
 18 during the four (4) years after the later of:

- 19 (1) the judgment of the circuit or superior court; or
- 20 (2) the date of the final disposition of all appeals to a higher court;
 21 unless the annexation is petitioned for under section 5 or 5.1 of this
 22 chapter.

23 ~~(c)~~ **(d) This subsection applies to an annexation for which an**
 24 **annexation ordinance is adopted before June 30, 2015.** This
 25 subsection applies if a municipality repeals the annexation ordinance:

- 26 (1) less than sixty-one (61) days after the publication of the
 27 ordinance under section 7(a) of this chapter; and
- 28 (2) before the hearing commences on the remonstrance under
 29 section ~~H(e)~~ **11(d)** of this chapter.

30 A municipality may not make further attempts to annex the territory or
 31 any part of the territory during the twelve (12) months after the date the
 32 municipality repeals the annexation ordinance. This subsection does
 33 not prohibit an annexation of the territory or part of the territory that is
 34 petitioned for under section 5 or 5.1 of this chapter.

35 ~~(d)~~ **(e) This subsection applies to an annexation for which an**
 36 **annexation ordinance is adopted before June 30, 2015.** This
 37 subsection applies if a municipality repeals the annexation ordinance:

- 38 (1) at least sixty-one (61) days but not more than one hundred
 39 twenty (120) days after the publication of the ordinance under
 40 section 7(a) of this chapter; and
- 41 (2) before the hearing commences on the remonstrance under
 42 section ~~H(e)~~ **11(d)** of this chapter.



A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) This subsection applies to an annexation for which an annexation ordinance is adopted before June 30, 2015. This subsection applies if a municipality repeals the annexation ordinance:

(1) either:

(A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences on the remonstrance under section ~~11(c)~~ **11(d)** of this chapter; or

(B) after the hearing commences on the remonstrance as set forth in section ~~11(c)~~ **11(d)** of this chapter; and

(2) before the date of the judgment of the circuit or superior court as set forth in subsection ~~(b)~~ **(c)**.

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(g) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. A municipality may not make subsequent annexations under section 3 or 4 of this chapter in the same territory for a period of forty-eight (48) months after the date that:

(1) the county auditor files the certificate with the legislative body of the annexing municipality under section 11(b)(6) of this chapter, if an annexation ordinance is void under section 11.1(c) of this chapter;

(2) the municipality repeals an annexation ordinance after publishing notice under section 11.1(b)(1) of this chapter; or

(3) a judgment of the court under section 12 or 15.5 of this chapter orders the annexation not to take place.

This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.



1 **(h) An annexation is effective when the clerk of the municipality**
 2 **complies with the filing requirement of section 22(a) of this**
 3 **chapter.**

4 SECTION 18. IC 36-4-3-22 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The clerk of the
 6 municipality shall ~~do the following:~~ ~~(1)~~ file:

7 **(1) each annexation ordinance against which:**

8 **(A) a remonstrance or an appeal has not been filed during the**
 9 **period permitted under this chapter; or**

10 **(B) a remonstrance was filed that did not meet the**
 11 **requirements of section 11.1(c) of this chapter, in the case**
 12 **of an annexation for which an annexation ordinance was**
 13 **adopted after June 30, 2015; or**

14 **(2) the certified copy of a final and unappealable judgment**
 15 **ordering an annexation to take place;**

16 **with each of the following: the county auditor, circuit court clerk,**
 17 **and board of registration (if a board of registration exists) (A) The**
 18 **county auditor of each county in which the annexed territory is located**
 19 **(B) The circuit court clerk of each county in which the annexed**
 20 **territory is located. (C) If a board of registration exists, the registration**
 21 **board of each county in which the annexed territory is located. (D) and**
 22 **the office of the secretary of state (E) and the office of census data**
 23 **established by IC 2-5-1.1-12.2. (2) The clerk of the municipality shall**
 24 **record each annexation ordinance adopted under this chapter in the**
 25 **office of the county recorder of each county in which the annexed**
 26 **territory is located.**

27 **(b) The copy must be ordinance or judgment must be filed and**
 28 **recorded no later than ninety (90) days after:**

29 **(1) the expiration of the period permitted for a remonstrance or**
 30 **appeal; or**

31 **(2) the delivery of a certified order under section 15 of this**
 32 **chapter; or**

33 **(3) the date the county auditor files the written certification to**
 34 **the legislative body under section 11.1(b)(6) of this chapter, in**
 35 **the case of an annexation described in subsection (a)(1)(B).**

36 **(c) Failure to record the annexation ordinance as provided in**
 37 **subsection (a)(2) (a) does not invalidate the ordinance.**

38 **(d) The county auditor shall forward a copy of any annexation**
 39 **ordinance filed under this section to the following:**

40 **(1) The county highway department of each county in which the**
 41 **lots or lands affected are located.**

42 **(2) The county surveyor of each county in which the lots or lands**



affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 19. IC 36-9-22-2, AS AMENDED BY P.L.243-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

(1) did not contribute to the original cost of the sewage works; and

(2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a



1 party to the contract unless the contract or (after June 30, 2013) a
 2 signed memorandum of the contract has been recorded in the office of
 3 the recorder of the county in which the real property of the owner is
 4 located before the owner taps into or connects to the sewers and
 5 facilities. The board may provide that the fair pro rata share of the cost
 6 of construction includes interest at a rate not exceeding the amount of
 7 interest allowed on judgments, and the interest shall be computed from
 8 the date the sewage works are approved until the date payment is made
 9 to the municipality.

10 (c) The contract must include, as part of the consideration running
 11 to the municipality, the release of the right of the parties to the contract
 12 and their successors in title to remonstrate against pending or future
 13 annexations by the municipality of the area served by the sewage
 14 works. Any person tapping into or connecting to the sewage works
 15 contracted for is considered to waive the person's rights to remonstrate
 16 against the annexation of the area served by the sewage works. **A**
 17 **waiver of remonstrance against pending or future annexations that**
 18 **is executed after June 30, 2015, expires on the earlier of the**
 19 **following dates:**

20 (1) **Twenty-five (25) years after the date the waiver is**
 21 **executed.**

22 (2) **The date that the original municipal debt, bonds, or**
 23 **obligations that:**

24 (A) **were issued or incurred to finance:**

25 (i) **the construction or improvements; or**

26 (ii) **other costs; and**

27 (B) **are directly related to the provision of the service for**
 28 **which the waiver was obtained;**

29 **are fully paid or would be paid.**

30 **The extension of the date of repayment of the municipal debt,**
 31 **bonds, or obligations described in subdivision (2) because of**
 32 **refinancing or refunding does not extend the date determined in**
 33 **subdivision (2).**

34 (d) This subsection does not affect any rights or liabilities accrued,
 35 or proceedings begun before July 1, 2013. Those rights, liabilities, and
 36 proceedings continue and shall be imposed and enforced under prior
 37 law as if this subsection had not been enacted. For contracts executed
 38 after June 30, 2013, the release of the right to remonstrate is binding on
 39 a successor in title to a party to the contract only if the successor in
 40 title:

41 (1) **has actual notice of the release; or**

42 (2) **has constructive notice of the release because the contract, or**



a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

(e) Subsection (c) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.

(f) Subsection (c) does not apply to a landowner who taps into, connects to, or is required to tap into or connect to the sewage works of a municipality only because the municipality provides wholesale sewage service (as defined in IC 8-1-2-61.7) to another municipality that provides sewage service to the landowner.

SECTION 20. IC 36-9-25-14, AS AMENDED BY P.L.243-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. (a) As to each municipality to which this chapter applies:

(1) all the territory included within the corporate boundaries of the municipality; and

(2) any territory, town, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the municipality that has been taken into the district in accordance with a prior statute, the sewage or drainage of which discharges into or through the sewage system of the municipality;

constitutes a special taxing district for the purpose of providing for the sanitary disposal of the sewage of the district in a manner that protects the public health and prevents the undue pollution of watercourses of the district.

(b) Upon request by:

(1) a resolution adopted by the legislative body of another municipality in the same county; or

(2) a petition of the majority of the resident freeholders in a platted subdivision or of the owners of unplatted land outside the boundaries of a municipality, if the platted subdivision or unplatted land is in the same county;

the board may adopt a resolution incorporating all or any part of the area of the municipality, platted subdivision, or unplatted land into the district.

(c) A request under subsection (b) must be signed and certified as correct by the secretary of the legislative body, resident freeholders, or landowners. The original shall be preserved in the records of the board.



1 The resolution of the board incorporating an area in the district must be
2 in writing and must contain an accurate description of the area
3 incorporated into the district. A certified copy of the resolution, signed
4 by the president and secretary of the board, together with a map
5 showing the boundaries of the district and the location of additional
6 areas, shall be delivered to the auditor of the county within which the
7 district is located. It shall be properly indexed and kept in the
8 permanent records of the offices of the auditor.

9 (d) In addition, upon request by ten (10) or more interested resident
10 freeholders in a platted or unplatted territory, the board may define the
11 limits of an area within the county and including the property of the
12 freeholders that is to be considered for inclusion into the district.
13 Notice of the defining of the area by the board, and notice of the
14 location and limits of the area, shall be given by publication in
15 accordance with IC 5-3-1. Upon request by a majority of the resident
16 freeholders of the area, the area may be incorporated into the district in
17 the manner provided in this section. The resolution of the board
18 incorporating the area into the district and a map of the area shall be
19 made and filed in the same manner.

20 (e) In addition, a person owning or occupying real property outside
21 the district may enter into a sewer service agreement with the board for
22 connection to the sewage works of the district. If the agreement
23 provides for connection at a later time, the date or the event upon
24 which the service commences shall be stated in the agreement. The
25 agreement may impose any conditions for connection that the board
26 determines. The agreement must also provide the amount of service
27 charge to be charged for connection if the persons are not covered
28 under section 11 of this chapter, with the amount to be fixed by the
29 board in its discretion and without a hearing.

30 (f) All sewer service agreements made under subsection (e) or (after
31 June 30, 2013) a signed memorandum of the sewer service agreement
32 shall be recorded in the office of the recorder of the county where the
33 property is located. The agreements run with the property described
34 and are binding upon the persons owning or occupying the property,
35 their personal representatives, heirs, devisees, grantees, successors, and
36 assigns. Each agreement that is recorded, or each agreement of which
37 a signed memorandum is recorded, and that provides for the property
38 being served to be placed on the tax rolls shall be certified by the board
39 to the auditor of the county where the property is located. The
40 certification must state the date the property is to be placed on the tax
41 rolls, and upon receipt of the certification together with a copy of the
42 agreement, the auditor shall immediately place the property certified



upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in subsection ~~(j)~~; **(k)**, sewer service agreements made under subsection (e) must contain a waiver provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

- (1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;
- (2) not appeal from an order or a judgment annexing the property to a municipality; and
- (3) not file a complaint or an action against annexation proceedings.

(h) A waiver of remonstrance that is executed after June 30, 2015, expires on the earlier of the following dates:

- (1) Twenty-five (25) years after the date the waiver is executed.**
 - (2) The date that the original municipal debt, bonds, or obligations that:**
 - (A) were issued or incurred to finance:**
 - (i) the construction or improvements; or**
 - (ii) other costs; and**
 - (B) are directly related to the provision of the service for which the waiver was obtained;**
- are fully paid or would be paid.**

The extension of the date of repayment of the municipal debt, bonds, or obligations described in subdivision (2) because of refinancing or refunding does not extend the date determined in subdivision (2).

~~(h)~~ **(i)** This subsection does not affect any rights or liabilities accrued or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, a waiver of the right to remonstrate under subsection (g) is binding as to an executor, administrator, heir, devisee, grantee, successor, or assign of a party to a sewer service agreement under subsection (g) only if the executor, administrator, heir, devisee, grantee, successor, or assign:

- (1) has actual notice of the waiver; or



- 1 (2) has constructive notice of the waiver because the sewer
2 service agreement or a signed memorandum of the sewer service
3 agreement stating the waiver has been recorded in the chain of
4 title of the property.
- 5 (†) (j) This section does not affect any sewer service agreements
6 entered into before March 13, 1953.
- 7 (†) (k) Subsection (g) does not apply to a landowner if all of the
8 following conditions apply:
- 9 (1) The landowner is required to connect to a sewer service
10 because a person other than the landowner has polluted or
11 contaminated the area.
- 12 (2) The costs of extension of service or connection to the sewer
13 service are paid by a person other than the landowner or the
14 municipality.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 330, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 1, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 1, line 2, after "2015]" delete "." and insert ":".

Page 1, line 2, reset in roman "Sec. 2. (a) The persons involved shall negotiate the terms for".

Page 1, reset in roman lines 3 through 14.

Page 1, after line 14, begin a new paragraph and insert:

"(d) Notwithstanding any other law, a waiver of the right to remonstrate is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Page 2, line 17, delete "'economic" and insert "'infrastructure" means the capital improvements that comprise:

- (1) a sanitary sewer system or wastewater treatment facility;
- (2) a building and appurtenances;
- (3) a park or recreational facility;
- (4) a road, street, highway, or bridge; or
- (5) a water treatment, water storage, or water distribution facility.

(b) This section applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. If a municipality annexes territory that contains infrastructure constructed or improved by the county, the annexing municipality shall assume and is responsible for paying all indebtedness of the county incurred in constructing or improving the infrastructure that is outstanding on the date the annexation is effective. The rights of a bondholder with respect to the indebtedness remains the same, although the powers, duties, agreements, and liabilities of the county have been transferred to the annexing municipality, and the annexing municipality is considered to have assumed all those powers, duties, agreements, and liabilities."

Page 2, delete lines 18 through 42.

Delete pages 3 through 5, begin a new paragraph and insert:

"SECTION 4. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) A municipality may not promote or collect signatures on an annexation petition that is filed under this section after June 30, 2015."

ES 330—LS 6925/DI 87



~~(a)~~ **(b)** If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of:

(i) the owners of land in the territory sought to be annexed, in the case of a petition filed before July 1, 2015; or

(ii) in the territory sought to be annexed that is not exempt from property taxes under IC 6-1.1-10 or any other state law, in the case of a petition filed after June 30, 2015; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

~~(b)~~ **(c)** The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

~~(c)~~ **(d)** Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection ~~(a)~~, **(b)**, the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

~~(d)~~ **(e)** The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors,



the court shall deny the petition and dismiss the proceeding.

~~(e)~~ **(f)** This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 5. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) ~~This section applies to an annexation in which~~ Owners of land located outside but contiguous to a municipality **may** file a petition with the legislative body of the municipality:

(1) requesting an ordinance annexing the area described in the petition; and

(2) signed by:

(A) one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed, in the case of a petition filed before July 1, 2015; and

(B) in the case of a petition filed after June 30, 2015, one hundred percent (100%) of the owners of land that is:

(i) located within the territory that is proposed to be annexed; and

(ii) not exempt from property taxes under IC 6-1.1-10 or any other state law.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier



than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

~~(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.~~

(j) In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter."

Page 6, delete lines 5 through 6, begin a new paragraph and insert:

"(b) This section applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015."

Page 6, line 18, delete "sixty" and insert "seventy-five".

Page 6, line 18, delete "(60%)" and insert "(75%)".

Page 7, line 8, delete "is sufficient," and insert "has a sufficient number of signatures,".

Page 7, delete lines 22 through 42.

Delete page 8.

Page 9, delete lines 1 through 28, begin a new paragraph and insert:

"SECTION 7. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.6. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.**

(b) A waiver or release of the right of remonstrance by a landowner or successor in title is void and may not be considered or counted as a valid signature on a petition in favor of annexation under section 5, 5.1, or 5.5 of this chapter.

(c) If with regard to a signature on a petition for annexation under section 5, 5.1, or 5.5 of this chapter:



- (1) the validity of a signature is uncertain; and
- (2) this section does not establish a standard to be applied in the case;

a reasonable doubt must be resolved in favor of the validity of the signature.

(d) Whenever the name of an individual, as printed or signed, contains a minor variation from the name of the individual as set forth in the relevant county records, the signature is considered valid.

(e) Whenever the residence address or mailing address of an individual contains a minor variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered valid.

(f) If the residence address or mailing address of an individual contains a substantial variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered invalid.

(g) If the signature of an individual does not substantially conform with the signature of the individual in relevant county records, the signature is considered invalid. In determining whether a signature substantially conforms with the signature in the relevant county records, consideration shall be given to whether that lack of conformity may reasonably be attributed to the age, disability, or impairment of the individual.

SECTION 7. IC 36-4-3-7, AS AMENDED BY P.L.113-2010, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) After an **annexation** ordinance is adopted, ~~under section 3, 4, 5, or 5.1 of this chapter, it the ordinance~~ must be published in the manner prescribed by IC 5-3-1.

(b) **This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.** Except as provided in subsection ~~(b); (c); or (f);~~ (c), (d), or (e), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(c) **The annexation ordinance takes effect as follows:**

- (1) **This subdivision applies to an annexation under section 5 of this chapter. Except as provided in subsection (d) or (f), in the absence of an appeal under section 15.5 of this chapter, the annexation ordinance takes effect at least ninety (90) days after its publication and upon filing under section 22(a) of this chapter.**



(2) This subdivision applies to an annexation under section 5.1 of this chapter. Except as provided in subsection (d) or (f), in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing under section 22(a) of this chapter.

(3) This subdivision applies to an annexation under section 5.5 of this chapter. Except as provided in subsection (d) or (f), if the court's judgment under section 12 of this chapter, including any appeals under section 15.5 of this chapter, is in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

(4) This subdivision applies to an annexation under section 7.1 of this chapter for which an annexation ordinance is adopted after June 30, 2015. Notwithstanding subsection (d), if the court's judgment under section 12 of this chapter, including any appeals under section 15.5 of this chapter, is in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

~~(b)~~ **(d)** An ordinance described in subsection ~~(d)~~ or adopted under section 3, 4, 5, or 5.1 of this chapter **annexation** may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

~~(e)~~ **(e)** Subsections ~~(d)~~ **(f)** and ~~(e)~~ **(g)** apply to fire protection districts that are established after June 14, 1987.

~~(d)~~ **(f)** Except as provided in subsection ~~(b)~~, **(d)**, whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance, in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or in the absence of a hearing or an appeal under section 12 or 15.5 of this chapter (in the case of an annexation for which an annexation ordinance is adopted after June 30, 2015)**, takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

- (1) provide fire protection to that territory beginning **on** the date the ordinance is effective; and
- (2) send written notice to the fire protection district of the date the



municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) (g) If the fire protection district from which a municipality annexes territory under subsection (d) (f) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 8. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. (a) **This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015.** Notwithstanding section 7(b) 7(c) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11 or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if ~~all of the following conditions are met:~~ **the conditions set forth in subsection (c) are met.**

(b) **This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. An annexation that meets the conditions set forth in subsection (c) takes effect as set forth in section 7(c) of this chapter.**

(c) **This section applies to an annexation that meets all of the following conditions:**

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.



(3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits."

Page 9, line 29, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 9, line 30, after "2015]" delete "." and insert ":".

Page 9, line 30, reset in roman "Sec. 11. (a) Except as provided in".

Page 9, line 31, reset in roman "subsections (d) and (e), whenever territory is annexed by a".

Page 9, reset in roman lines 32 through 42.

Page 10, reset in roman lines 1 through 27.

Page 10, between lines 27 and 28, begin a new paragraph and insert:

"(f) This section applies only to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Page 10, line 28, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 10, line 29, after "2015]" delete "." and insert ":".

Page 10, line 29, reset in roman "Sec. 11.5."

Page 10, line 29, after "11.5." insert "(a)".

Page 10, line 29, reset in roman "A landowner in an unincorporated area is not".

Page 10, reset in roman lines 30 through 37.

Page 10, between lines 37 and 38, begin a new paragraph and insert:

"(b) Notwithstanding any other law, a waiver of the right to remonstrate is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Page 10, line 42, reset in roman "11".

Page 10, line 42, after "11" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.

Page 11, line 1, reset in roman "remonstrance".

Page 11, line 1, after "remonstrance" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.

Page 11, line 15, reset in roman "Except as provided in".

Page 11, line 16, delete "At" and insert **"subsection (e), at"**.

Page 11, line 32, delete "one (1) of".

Page 11, line 33, delete ":".

Page 11, line 34, delete "(A)".

Page 11, run in lines 33 through 34.

Page 11, line 38, delete "; and" and insert ".".



Page 11, line 39, beginning with "(2)" begin a new line block indented.

Page 11, line 39, reset in roman "(2) That the territory sought to be annexed".

Page 11, line 39, delete "(B)".

Page 11, delete line 42.

Page 12, delete lines 1 through 2.

Page 12, line 36, reset in roman "(e)".

Page 12, line 36, after "(e)" insert **"This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015."**

Page 12, line 36, reset in roman "At the hearing under section 12 of this chapter, the court shall do".

Page 12, reset in roman lines 37 through 42.

Page 13, reset in roman lines 1 through 24.

Page 13, line 25, reset in roman "(f)".

Page 13, line 25, after "(f)" insert **"This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015."**

Page 13, line 25, reset in roman "The municipality under subsection (c)(2)(C) bears the burden of".

Page 13, reset in roman lines 26 through 36.

Page 14, line 21, delete "(e)" and insert "(g)".

Page 14, line 29, delete "(f)" and insert **"(h) This subsection applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015."**

Page 15, line 22, reset in roman "11(c)".

Page 15, line 22, after "11(c)" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.

Page 15, line 34, reset in roman "11(c)".

Page 15, line 34, after "11(c)" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.

Page 16, line 4, reset in roman "11(c)".

Page 16, line 4, after "11(c)" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.

Page 16, line 6, reset in roman "11(c)".

Page 16, line 6, after "11(c)" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015) or"**.



Page 16, line 18, delete "REPEALED" and insert "AMENDED TO READ AS FOLLOWS".

Page 16, line 19, after "2015]" delete "." and insert ":".

Page 16, line 19, reset in roman "Sec. 15.3. (a) As used in this section, "prohibition against".

Page 16, reset in roman lines 20 through 42.

Page 17, reset in roman line 1.

Page 17, between lines 1 and 2, begin a new paragraph and insert:
"(d) A settlement agreement executed after June 30, 2015, is void."

Page 17, line 5, reset in roman "a remonstrance".

Page 17, line 5, after "remonstrance" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015)"**.

Page 17, line 6, reset in roman "or".

Page 17, line 23, reset in roman "a remonstrance".

Page 17, line 23, after "remonstrance" insert **"(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2015)"**.

Page 17, line 23, reset in roman "or".

Page 19, line 1, reset in roman "(c)".

Page 19, line 1, delete "The" and insert **"Before July 1, 2015, the"**.

Page 19, line 1, reset in roman "contract must include, as part of the consideration running".

Page 19, reset in roman lines 2 through 6.

Page 19, line 7, reset in roman "against the annexation of the area served by the sewage".

Page 19, line 7, delete "works." and insert **"works, if the annexation ordinance is adopted before July 1, 2015."**

Page 19, reset in roman lines 8 through 10.

Page 19, line 11, reset in roman "law as if this subsection had not been enacted."

Page 19, line 11, delete "For" and insert **"Except as provided in subsection (g), for"**.

Page 19, line 11, reset in roman "contracts executed".

Page 19, reset in roman lines 12 through 30.

Page 19, after line 30, begin a new paragraph and insert:

"(g) Notwithstanding any other law, a release of the right to remonstrate is effective and binding on a landowner or a successor



in title to a party to the contract only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2015."

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to SB 330 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 6, Nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 330, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 14, begin a new paragraph and insert:
"SECTION 1. IC 13-18-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The persons involved shall negotiate the terms for connection and service under this chapter.

(b) If service is ordered under this chapter, a receiver of that service that is located in an unincorporated area may grant a waiver to a municipality providing the service. A waiver under this section:

- (1) must waive the receiver's right of remonstrance against annexation of the areas in which the service is to be provided; and
- (2) may be one (1) of the terms for connection and service described in subsection (a).

(c) The waiver, if granted:

- (1) shall be noted on the deed of each property affected and recorded as provided by law; and
- (2) is considered a covenant running with the land.

(d) A waiver of remonstrance that is executed after June 30, 2015, expires on the earlier of the following dates:

- (1) Twenty-five (25) years after the date the waiver is executed.**
- (2) The date that the original municipal debt, bonds, or obligations that:**

(A) were issued or incurred to finance:

- (i) the construction or improvements; or**

ES 330—LS 6925/DI 87



- (ii) other costs; and
 - (B) are directly related to the provision of the service for which the waiver was obtained;
- are fully paid or would be paid.

The extension of the date of repayment of the municipal debt, bonds, or obligations described in subdivision (2) because of refinancing or refunding does not extend the date determined in subdivision (2).

SECTION 2. IC 36-4-3-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.2. The annexation procedures may be referred to as follows:**

- (1) An annexation under section 5 of this chapter may be referred to as a landowner initiated annexation.
- (2) An annexation under section 5.1 of this chapter may be referred to as a unanimous landowner initiated annexation.
- (3) An annexation to which section 5 or 5.1 of this chapter does not apply may be referred to as a municipality initiated annexation.

SECTION 3. IC 36-4-3-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. (a)** For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous a strip of land less than one hundred fifty (150) feet wide ~~which~~ **that** connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

(b) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. A public highway or the rights-of-way of a public highway is contiguous to:

- (1) the municipality; or
- (2) property in the unincorporated area adjacent to the public highway or rights-of-way of a public highway;

if the public highway or the rights-of-way of a public highway is contiguous under subsection (a) and one (1) of the requirements in subsection (c) is satisfied.

(c) A public highway or rights-of-way of a public highway is not contiguous unless one (1) of the following requirements is met:

- (1) The municipality obtains the written consent of the owners of all property:
 - (A) adjacent to the entire length of the portion of the public



highway and rights-of-way of the public highway that is being annexed; and

(B) not already within the corporate boundaries of the municipality.

A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent for purposes of this subdivision.

(2) All property adjacent to the entire length of the portion of the public highway or rights-of-way of the public highway being annexed are already within the corporate boundaries of the municipality.

(3) All property adjacent to the entire length of the portion of the public highway or rights-of-way of the public highway being annexed are part of the same annexation ordinance in which the public highway or rights-of-way of a public highway are being annexed.

A municipality may not annex a public highway or rights-of-way of a public highway or annex territory adjacent to the public highway or rights-of-way of a public highway unless the requirements of this section are met.

SECTION 4. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.7. (a) This section applies only to an annexation ordinance adopted after June 30, 2015. This section does not apply to an annexation under section 5.1 of this chapter.

(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. The outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. The public information meetings must provide citizens with the following information:

(1) Maps showing the proposed boundaries of the annexation territory.

(2) Proposed plans for extension of capital and noncapital services in the annexation territory, including proposed dates of extension.

(3) Expected fiscal impact on taxpayers in the annexation territory, including any increase in taxes and fees.

(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall



publish the notice of the meetings under IC 5-3-1, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by mail or certified mail and include the following information:

(1) The notice shall inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.

(2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.

(3) The date, time, and location of the meetings to be conducted under the outreach program.

(d) The notice shall be sent to the address of the landowner as listed on the tax duplicate. If the municipality provides evidence that the notice was sent by certified mail, with return receipt requested, and in accordance with this section, it is not necessary that the landowner accept receipt of the notice. If a remonstrance is filed under section 11 of this chapter, the municipality shall file with the court proof that notices were sent to landowners under this section and proof of publication.

(e) The notice required under this section is in addition to any notice required under sections 2.1 and 2.2 of this chapter.

SECTION 5. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), ~~or 4(h) or 4.1~~ of this chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection (f), the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as shown on



the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are only included in the annexation of territory by operation of IC 36-4-3-2.5 on the side of the public highway that is not part of the annexed territory.

(d) The notice required by this section must include the following:

- (1) A legal description of the real property proposed to be annexed.
- (2) The date, time, location, and subject of the hearing.
- (3) A map showing the current municipal boundaries and the proposed municipal boundaries.
- (4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.
- (5) A detailed summary of the fiscal plan, described in section 13 of this chapter, **if applicable**.
- (6) The location where the public may inspect and copy the fiscal plan, **if applicable**.
- (7) A statement that the municipality will provide a copy of the fiscal plan, **if applicable**, after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.
- (8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

SECTION 6. IC 36-4-3-4.1, AS AMENDED BY P.L.243-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.1. (a) A municipality may annex territory under this section only if the territory is contiguous to the municipality.

(b) **This subsection applies only to an annexation ordinance adopted before July 1, 2015.** Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains



agricultural.

(c) This subsection applies only to an annexation ordinance adopted after June 30, 2015. Real property annexed under this section:

- (1) is exempt; and**
- (2) remains exempt;**

from all property tax liability under IC 6-1.1 for municipal purposes while the property is assessed as agricultural land under the real property assessment rules and guidelines of the department of local government finance.

~~(c)~~ **(d)** There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

~~(d)~~ **(e)** Territory annexed under this section may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter."

Page 2, delete lines 1 through 19.

Page 2, delete line 42, begin a new paragraph and insert:

"SECTION 8. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) **This subsection applies only to a petition requesting annexation that is filed before July 1, 2015.** If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

- (1) signed by at least:
 - (A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or
 - (B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and
- (2) requesting an ordinance annexing the area described in the petition.

(b) This subsection applies only to a petition requesting annexation that is filed after June 30, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition that meets the following requirements:

- (1) The petition is signed by at least one (1) of the following:**
 - (A) Fifty-one percent (51%) of the owners of land in the**



territory sought to be annexed. An owner of land may not:

- (i) be counted in calculating the total number of owners of land in the annexation territory; or**
- (ii) have the owner's signature counted;**

with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(B) The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The petition requests an ordinance annexing the area described in the petition.

~~(b)~~ (c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

~~(c)~~ (d) ~~Except as provided in section 5.1 of this chapter,~~ If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

~~(d)~~ (e) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;



(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

~~(e)~~ **(f)** This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district."

Delete page 3.

Page 4, delete lines 1 through 8.

Page 4, line 21, delete "owners of land that is:" and insert **"landowners that reside within the territory that is proposed to be annexed."**

Page 4, delete lines 22 through 25.

Page 5, delete lines 26 through 42.

Delete pages 6 through 9.

Page 10, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 9. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the ~~sixty~~ ~~(60) day~~ remonstrance and appeal period under section 11, **11.1**, or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if all of the following conditions are met:

(1) The annexed territory has no population.

(2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.

(3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits."

Page 10, line 19, after "(a)" insert **"This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015."**

Page 10, line 20, reset in roman "section 5.1(i) of this chapter and".

Page 10, line 20, strike "(d) and (e)," and insert **"(e) and (f),"**.

Page 10, line 33, after "(b)" insert **"This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015."**



Page 10, line 41, after "(c)" insert **"This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015."**

Page 10, line 41, strike "it" and insert **"the court"**.

Page 10, line 42, strike "of its" and insert **"after the court's"**.

Page 11, between lines 3 and 4, begin a new paragraph and insert:

"(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015. If the number of signatures on a remonstrance as determined by the county auditor meets the requirements of section 11.1(d) of this chapter, the remonstrance may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:

- (1) the signed remonstrances filed with the county auditor under section 11.1 of this chapter;**
- (2) the county auditor's certification under section 11.1(b)(6) of this chapter;**
- (3) the annexation ordinance; and**
- (4) a statement of the reason why the annexation should not take place.**

The remonstrance must be filed with the court not later than fourteen (14) business days after the date the county auditor files the certificate with the legislative body under section 11.1(b)(6) of this chapter. Notwithstanding section 11.1(b)(2) of this chapter, after a remonstrance petition is filed with the court, any person who signed a remonstrance may file with the court a written revocation of the person's opposition to the annexation."

Page 11, line 4, strike "(d)" and insert **"(e)"**.

Page 11, line 8, strike "(e)" and insert **"(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015."**

Page 11, line 16, after "territory" insert **"."**

Page 11, line 16, strike "as determined under subsection".

Page 11, strike line 17.

Page 11, delete lines 18 through 42.

Delete pages 12 through 14, begin a new paragraph and insert:

"SECTION 11. IC 36-4-3-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.1. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

(b) After an annexation ordinance has been adopted in accordance with all applicable notice and hearing requirements



under this chapter, the annexation may not proceed unless the annexing municipality completes the following procedures:

(1) The proper officers of the municipality must give notice of the applicability of the remonstrance process by:

- (A) publishing the notice in accordance with IC 5-3-1; and
- (B) first class mail to the circuit court clerk and to owners of real property described in section 2.2 of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the area to be annexed who want to remonstrate against the proposed annexation must file remonstrances in compliance with subdivisions (2) through (4) not later than ninety (90) days after publication of the notice in accordance with IC 5-3-1.

(2) Not later than ninety (90) days after the notice under subdivision (1) is given, remonstrances may be filed by an owner of real property within the area to be annexed that was not exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year. Each signature on the remonstrance must be dated, and the date of the signature may not be earlier than the date on which the remonstrance forms may be issued under subdivision (3). A person who signs as an owner of real property must indicate the address of the real property owned by the person in the area to be annexed. A remonstrance petition must be verified in compliance with subdivision (4) before the remonstrance is effective. A signature on a remonstrance form is final and may not be rescinded.

(3) The state board of accounts shall design and, upon request by the county auditor's office, deliver to the county auditor's office or the county auditor's office's designated printer the remonstrance forms to be used solely in the remonstrance process described in this section. The county auditor's office shall issue to an owner or owners of real property within the area to be annexed the number of remonstrance forms requested by the owner or owners. Each form must be accompanied by instructions detailing all of the following requirements:

- (A) A carrier of the remonstrance may not be:
 - (i) compensated for; or
 - (ii) reimbursed for expenses incurred in; circulating a remonstrance form for signature.
- (B) After the signatures have been collected, the carrier



must swear or affirm before a notary public that the carrier witnessed each signature.

(C) The closing date for the remonstrance period.

A person requesting remonstrance forms may be required to identify himself or herself as an owner of real property and may be allowed to obtain additional copies to distribute to other owners of real property and to carriers of the remonstrance. The county auditor's office may not issue a remonstrance form earlier than the day that notice is published under subdivision (1). The county auditor's office shall certify the date of issuance on each remonstrance form that is distributed under this subdivision.

(4) Remonstrance forms must be verified in the manner prescribed by the state board of accounts and filed with the county auditor's office within the period described in subdivision (2).

(5) Not later than fifteen (15) business days after receiving a remonstrance, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed who signed the remonstrance. Only one (1) person having an interest in each single property as evidenced by the tax duplicate is considered an owner of property for purposes of this section and may sign a remonstrance.

(6) The county auditor shall file a certificate with the legislative body of the annexing municipality not later than five (5) business days after making the determination under subdivision (5). In making the determination under subdivision (5), the county auditor shall use the auditor's current tax records as provided in section 2.2 of this chapter.

(c) The annexation ordinance is void if a written remonstrance is signed by one (1) of the following:

(1) At least sixty-five percent (65%) of the owners of land in the annexed territory. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that an owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least eighty percent (80%) in assessed



valuation of the land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count the owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(d) The annexation may be appealed to the court under section 11 of this chapter, if a written remonstrance is signed by one (1) of the following:

(1) At least fifty-one percent (51%) but less than sixty-five percent (65%) of the owners of land. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least sixty percent (60%) but less than eighty percent (80%) in assessed valuation of land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

SECTION 12. IC 36-4-3-11.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.2. (a) This section applies to a remonstrance filed after June 30, 2015.

(b) If:

(1) an annexation ordinance is void under section 11.1(c) of this chapter; or

(2) the court orders an annexation not to take place after a hearing under section 11 of this chapter;



a court shall allow remonstrators to be reimbursed by the annexing municipality for reasonable expenses incurred in filing the remonstrance and any litigation expenses including appeal costs and reasonable attorney's fees. However, any expenses incurred by a carrier in circulating a remonstrance petition may not be reimbursed. The total amount reimbursed may not to exceed fifty thousand dollars (\$50,000).

SECTION 13. IC 36-4-3-11.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.3. A waiver of remonstrance that is executed after June 30, 2015, expires on the earlier of the following dates:**

- (1) Twenty-five (25) years after the date the waiver is executed.**
- (2) The date that the original municipal debt, bonds, or obligations that:**
 - (A) were issued or incurred to finance:**
 - (i) the construction or improvements; or**
 - (ii) other costs; and**
 - (B) are directly related to the provision of the service for which the waiver was obtained;****are fully paid or would be paid.**

The extension of the date of repayment of the municipal debt, bonds, or obligations described in subdivision (2) because of refinancing or refunding does not extend the date determined in subdivision (2).

SECTION 14. IC 36-4-3-13, AS AMENDED BY P.L.119-2012, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 13. (a) Except as provided in subsections subsection (e), and (g); at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:**

- (1) The requirements of either subsection (b) or (c).**
 - (2) The requirements of subsection (d).**
 - (3) The requirements of subsection (i).**
- (b) The requirements of this subsection are met if the evidence establishes the following:**
- (1) That the territory sought to be annexed is contiguous to the municipality.**
 - (2) One (1) of the following:**
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.**



(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to



areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.

(7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.

(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the **following conditions, ~~set forth in clauses (A) through (D)~~ and, if applicable, clause (E) **that are applicable to the annexation**, exist in the territory proposed to be annexed:**

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.



(B) This clause applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.**
- (ii) Maintenance of streets and roads located within the annexation territory.**

For purposes of this clause, a unit is considered the provider of a service to the area within the territory if the unit has the primary responsibility for providing the service. If a unit provides service to the area in the annexation territory under contract with the annexing municipality, the unit is the provider of the service for purposes of this clause and not the annexing municipality.

~~(B)~~ **(C) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:**

- (i) the personal finances; or**
- (ii) the business finances;**

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns may not be subject to a subpoena or discovery proceedings.

~~(C)~~ **(D) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).**

~~(D)~~ **(E) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.**

One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.**
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.**

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

- (i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.**



- (ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

~~(E)~~ (G) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015.

This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection ~~(e)(2)(C)~~ **(e)(2)(D)** bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

~~(g) This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:~~

- ~~(1) Consider evidence on the conditions listed in subdivision (2);~~
- ~~(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:~~

~~(A) The following services are adequately furnished by a~~



provider other than the municipality seeking the annexation:

(i) Police and fire protection:

(ii) Street and road maintenance:

(B) The annexation will have a significant financial impact on the residents or owners of land:

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed:

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed:

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed:

(h) (g) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan to exclude parcels after the date that a remonstrance is filed under section 11 of this chapter, unless amendment of the fiscal plan is consented to by the owners of the excluded parcels who signed the remonstrance petition.

(i) The municipality must submit proof that the municipality has complied with the outreach program requirements and notice requirements of section 1.7 of this chapter."

Page 15, delete lines 1 through 33.

Page 15, delete line 42, begin a new paragraph and insert:

"SECTION 16. IC 36-4-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) This section applies to a judgment filed after June 30, 2015.

(a) (b) The court's judgment under section 12 or 15.5 of this chapter must specify the annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the final and unappealable judgment to the clerk of the municipality. The clerk of the municipality shall:

(1) record the judgment in the clerk's ordinance record; and

(2) make a cross-reference to the record of the judgment on the



margin of the record of the annexation ordinance.

~~(b)~~ (c) If a **final and unappealable** judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

- (1) the judgment of the circuit or superior court; or
- (2) the date of the final disposition of all appeals to a higher court; unless the annexation is petitioned for under section 5 or 5.1 of this chapter.

~~(c)~~ (d) **This subsection applies to an annexation for which an annexation ordinance is adopted before June 30, 2015.** This subsection applies if a municipality repeals the annexation ordinance:

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section ~~H(c)~~ **11(d)** of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

~~(d)~~ (e) **This subsection applies to an annexation for which an annexation ordinance is adopted before June 30, 2015.** This subsection applies if a municipality repeals the annexation ordinance:

- (1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section ~~H(c)~~ **11(d)** of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

~~(e)~~ (f) **This subsection applies to an annexation for which an annexation ordinance is adopted before June 30, 2015.** This subsection applies if a municipality repeals the annexation ordinance:

- (1) either:
 - (A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences on the remonstrance under section ~~H(c)~~ **11(d)** of this chapter; or



- (B) after the hearing commences on the remonstrance as set forth in section ~~H(e)~~ **11(d)** of this chapter; and
- (2) before the date of the judgment of the circuit or superior court as set forth in subsection ~~(b)~~: **(c)**.

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(g) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. A municipality may not make subsequent annexations under section 3 or 4 of this chapter in the same territory for a period of forty-eight (48) months after the date that:

- (1) the county auditor files the certificate with the legislative body of the annexing municipality under section 11(b)(6) of this chapter, if an annexation ordinance is void under section 11.1(c) of this chapter;**
- (2) the municipality repeals an annexation ordinance after publishing notice under section 11.1(b)(1) of this chapter; or**
- (3) a judgment of the court under section 12 or 15.5 of this chapter orders the annexation not to take place.**

This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

~~(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.~~

(h) An annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

SECTION 17. IC 36-4-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The clerk of the municipality shall ~~do the following:~~ ~~(1)~~ file:

- (1) each annexation ordinance against which:**
 - (A) a remonstrance or an appeal has not been filed during the period permitted under this chapter; or**
 - (B) a remonstrance was filed that did not meet the requirements of section 11.1(c) of this chapter, in the case of an annexation for which an annexation ordinance was adopted after June 30, 2015; or**



(2) the certified copy of a **final and unappealable** judgment ordering an annexation to take place;
 with ~~each of the following: the county auditor, circuit court clerk, and board of registration (if a board of registration exists)~~ (A) ~~The county auditor~~ of each county in which the annexed territory is located (B) ~~The circuit court clerk of each county in which the annexed territory is located.~~ (C) ~~If a board of registration exists, the registration board of each county in which the annexed territory is located.~~ (D) ~~and the office of the secretary of state~~ (E) ~~and the office of census data established by IC 2-5-1.1-12.2.~~ (2) **The clerk of the municipality shall** record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The ~~copy must be ordinance or judgment must be~~ filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for a remonstrance or appeal; ~~or~~

(2) the delivery of a certified order under section 15 of this chapter; ~~or~~

(3) the date the county auditor files the written certification to the legislative body under section 11.1(b)(6) of this chapter, in the case of an annexation described in subsection (a)(1)(B).

(c) Failure to record the annexation ordinance as provided in subsection ~~(a)(2)~~ (a) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the



office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 18. IC 36-9-22-2, AS AMENDED BY P.L.243-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

- (1) did not contribute to the original cost of the sewage works; and
- (2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to the contract unless the contract or (after June 30, 2013) a signed memorandum of the contract has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works



Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate against the annexation of the area served by the sewage works. **A waiver of remonstrance against pending or future annexations that is executed after June 30, 2015, expires on the earlier of the following dates:**

- (1) Twenty-five (25) years after the date the waiver is executed.**
- (2) The date that the original municipal debt, bonds, or obligations that:**
 - (A) were issued or incurred to finance:**
 - (i) the construction or improvements; or**
 - (ii) other costs; and**
 - (B) are directly related to the provision of the service for which the waiver was obtained;**

are fully paid or would be paid.

The extension of the date of repayment of the municipal debt, bonds, or obligations described in subdivision (2) because of refinancing or refunding does not extend the date determined in subdivision (2).

(d) This subsection does not affect any rights or liabilities accrued, or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, the release of the right to remonstrate is binding on a successor in title to a party to the contract only if the successor in title:

- (1) has actual notice of the release; or
- (2) has constructive notice of the release because the contract, or a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

(e) Subsection (c) does not apply to a landowner if all of the following conditions apply:

- (1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.
- (2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.

(f) Subsection (c) does not apply to a landowner who taps into, connects to, or is required to tap into or connect to the sewage works of a municipality only because the municipality provides wholesale sewage service (as defined in IC 8-1-2-61.7) to another municipality



that provides sewage service to the landowner.

SECTION 19. IC 36-9-25-14, AS AMENDED BY P.L.243-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. (a) As to each municipality to which this chapter applies:

- (1) all the territory included within the corporate boundaries of the municipality; and
- (2) any territory, town, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the municipality that has been taken into the district in accordance with a prior statute, the sewage or drainage of which discharges into or through the sewage system of the municipality;

constitutes a special taxing district for the purpose of providing for the sanitary disposal of the sewage of the district in a manner that protects the public health and prevents the undue pollution of watercourses of the district.

(b) Upon request by:

- (1) a resolution adopted by the legislative body of another municipality in the same county; or
- (2) a petition of the majority of the resident freeholders in a platted subdivision or of the owners of unplatted land outside the boundaries of a municipality, if the platted subdivision or unplatted land is in the same county;

the board may adopt a resolution incorporating all or any part of the area of the municipality, platted subdivision, or unplatted land into the district.

(c) A request under subsection (b) must be signed and certified as correct by the secretary of the legislative body, resident freeholders, or landowners. The original shall be preserved in the records of the board. The resolution of the board incorporating an area in the district must be in writing and must contain an accurate description of the area incorporated into the district. A certified copy of the resolution, signed by the president and secretary of the board, together with a map showing the boundaries of the district and the location of additional areas, shall be delivered to the auditor of the county within which the district is located. It shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) In addition, upon request by ten (10) or more interested resident freeholders in a platted or unplatted territory, the board may define the limits of an area within the county and including the property of the freeholders that is to be considered for inclusion into the district. Notice of the defining of the area by the board, and notice of the



location and limits of the area, shall be given by publication in accordance with IC 5-3-1. Upon request by a majority of the resident freeholders of the area, the area may be incorporated into the district in the manner provided in this section. The resolution of the board incorporating the area into the district and a map of the area shall be made and filed in the same manner.

(e) In addition, a person owning or occupying real property outside the district may enter into a sewer service agreement with the board for connection to the sewage works of the district. If the agreement provides for connection at a later time, the date or the event upon which the service commences shall be stated in the agreement. The agreement may impose any conditions for connection that the board determines. The agreement must also provide the amount of service charge to be charged for connection if the persons are not covered under section 11 of this chapter, with the amount to be fixed by the board in its discretion and without a hearing.

(f) All sewer service agreements made under subsection (e) or (after June 30, 2013) a signed memorandum of the sewer service agreement shall be recorded in the office of the recorder of the county where the property is located. The agreements run with the property described and are binding upon the persons owning or occupying the property, their personal representatives, heirs, devisees, grantees, successors, and assigns. Each agreement that is recorded, or each agreement of which a signed memorandum is recorded, and that provides for the property being served to be placed on the tax rolls shall be certified by the board to the auditor of the county where the property is located. The certification must state the date the property is to be placed on the tax rolls, and upon receipt of the certification together with a copy of the agreement, the auditor shall immediately place the property certified upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in subsection ~~(j)~~, **(k)**, sewer service agreements made under subsection (e) must contain a waiver provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

- (1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;
- (2) not appeal from an order or a judgment annexing the property



to a municipality; and

(3) not file a complaint or an action against annexation proceedings.

(h) A waiver of remonstrance that is executed after June 30, 2015, expires on the earlier of the following dates:

(1) Twenty-five (25) years after the date the waiver is executed.

(2) The date that the original municipal debt, bonds, or obligations that:

(A) were issued or incurred to finance:

(i) the construction or improvements; or

(ii) other costs; and

(B) are directly related to the provision of the service for which the waiver was obtained;

are fully paid or would be paid.

The extension of the date of repayment of the municipal debt, bonds, or obligations described in subdivision (2) because of refinancing or refunding does not extend the date determined in subdivision (2).

(h) (i) This subsection does not affect any rights or liabilities accrued or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, a waiver of the right to remonstrate under subsection (g) is binding as to an executor, administrator, heir, devisee, grantee, successor, or assign of a party to a sewer service agreement under subsection (g) only if the executor, administrator, heir, devisee, grantee, successor, or assign:

(1) has actual notice of the waiver; or

(2) has constructive notice of the waiver because the sewer service agreement or a signed memorandum of the sewer service agreement stating the waiver has been recorded in the chain of title of the property.

(h) (j) This section does not affect any sewer service agreements entered into before March 13, 1953.

(h) (k) Subsection (g) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to a sewer service because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of service or connection to the sewer service are paid by a person other than the landowner or the



municipality."

Delete pages 16 through 21.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 330 as printed February 20, 2015.)

MAHAN

Committee Vote: yeas 11, nays 1.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 330 be amended to read as follows:

Page 6, delete lines 28 through 42, begin a new paragraph and insert:

"SECTION 7. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4.2. (a) As used in this section, "infrastructure" means the capital improvements that comprise:**

- (1) a sanitary sewer system or wastewater treatment facility;**
- (2) a building and appurtenances;**
- (3) a park or recreational facility;**
- (4) a road, street, highway, or bridge; or**
- (5) a water treatment, water storage, or water distribution facility.**

(b) This section applies:

- (1) only to an annexation for which an annexation ordinance is adopted after June 30, 2015; and**
- (2) if there is debt, evidenced by bonds, leases, or other obligations, that is outstanding on infrastructure on the date that the annexation becomes effective.**

(c) This subsection applies if:

- (1) the municipality takes ownership of infrastructure located within the annexation territory, or part of an item of infrastructure, owned by the county; and**
- (2) the outstanding debt is payable from property taxes or from revenue bonds or obligations.**

The annexing municipality is liable to the county for reimbursements only if the municipality assumes ownership or partial ownership of the infrastructure. If the municipality assumes



ownership or partial ownership of the infrastructure, the municipality shall reimburse the county for the appropriate share of the remaining debt that is payable by the county from property taxes or revenues. The county and the annexing municipality shall enter into an interlocal agreement under IC 36-1-7 regarding the allocation of the debt and reimbursement terms.

(d) This subsection applies if a local income tax under IC 6-3.5 has been pledged by the county to pay outstanding debt on infrastructure located within the county. To offset the change in local income tax distributions that will occur after the annexation, the annexing municipality is liable to the county for reimbursements in the amount that represents part of the outstanding debt on the infrastructure until the debt is fully paid. The amount that the municipality is required to reimburse the county is the lesser of:

- (1) the amount of local income tax revenue for the distribution year that is shifted from the county to the municipality as a result of the annexation; or
- (2) the amount needed to produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service obligation for which the local income tax revenue was pledged.

(e) Reimbursements received by a county under this section shall be deposited in the appropriate debt service fund."

Page 7, delete lines 1 through 7.

Page 14, line 7, delete "The" and insert "Except as provided in subsection (e), the".

Page 15, between lines 9 and 10, begin a new paragraph and insert:

"(e) An annexation may be appealed to the court under section 11 of this chapter if all of the following requirements are met:

- (1) A written remonstrance is signed that meets the requirements of subsection (c) or (d).
- (2) The annexation territory is contiguous to:
 - (A) the municipality; and
 - (B) property that is the site of an economic development project.
- (3) The economic development project site described in subdivision (2)(B) needs the municipality to provide:
 - (A) water;
 - (B) sewer;
 - (C) gas; or
 - (D) any combination of the capital services described in



clauses (A) through (C).

(4) The municipality finds that it is in the municipality's best interest to annex the annexation territory in order to extend, construct, or operate the capital services that are provided to the economic development project site described in subdivision (2)(B)."

Page 18, line 13, delete "This clause applies only to an annexation for which an".

Page 18, line 14, delete "annexation ordinance was adopted before July 1, 2015."

Page 18, delete lines 19 through 33.

Page 18, line 34, reset in roman "(B)".

Page 18, line 34, delete "(C)".

Page 19, line 1, reset in roman "(C)".

Page 19, line 1, delete "(D)".

Page 19, line 4, reset in roman "(D)".

Page 19, line 4, delete "(E)".

Page 19, line 14, delete "(F)" and insert "(E)".

Page 19, line 27, delete "(G)" and insert "(F)".

Page 19, line 36, reset in roman "(e)(2)(C)" and delete "(e)(2)(D)".

Page 25, line 24, after "works" insert ".".

(Reference is to ESB 330 as printed April 7, 2015.)

TRUITT

